

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

JOHN WIGGINS,	:	
	:	
Plaintiff	:	CIVIL ACTION NO. 3:17-1410
	:	
v.	:	(JUDGE MANNION)
	:	
SHERIFF MARK McANDREW,	:	
<i>et al.</i>,	:	
	:	
Defendants	:	

ORDER

For the reasons set forth in the Memorandum of this date, **IT IS
HEREBY ORDERED THAT:**

1. The defendants' motion to dismiss, **(Doc. 7)**, the plaintiff's complaint, **(Doc. 1)**, is **GRANTED**, but the plaintiff will be permitted to amend his Eighth Amendment claim in Count I and his *Monell* claim in Count III.
2. The plaintiff is directed to identify his John Doe defendants 1-10 and to file an amended complaint regarding only his Eighth Amendment claim in Count I against these Doe defendants **within 14 days** of the date of this Order. If plaintiff fails to identify his John Doe defendants 1-10 as specified, they will be dismissed from this case.
3. All of the plaintiff's claims against Sheriff McAndrew and the Doe defendants in their official capacity are **DISMISSED WITH PREJUDICE**.

4. The plaintiff's claims for punitive damages against Lackawanna County and, against Sheriff McAndrew and the Doe defendants in their official capacity, are **DISMISSED WITH PREJUDICE**.
5. The defendants' motion to dismiss the plaintiff's §1983 claims for malicious prosecution, false imprisonment and false arrest under the Fourth Amendment in Count I is **GRANTED** and, these claims are **DISMISSED WITH PREJUDICE**.
6. The defendants' motion to dismiss the plaintiff's substantive and procedural due process claims under Fourteenth Amendment in Count II is **GRANTED** and, these claims are **DISMISSED WITH PREJUDICE**. Count II is also **DISMISSED IN ITS ENTIRETY**.
7. The defendants' motion to dismiss the plaintiff's Eighth Amendment claim for false imprisonment in Count I is **GRANTED** and, this claim is **DISMISSED WITHOUT PREJUDICE**. The plaintiff is permitted to file an amended complaint regarding his Eighth Amendment claim in Count I **within 14 days** of the date of this Order.
8. The plaintiff's state law tort claims that he may be raising in his complaint against all of the defendants are **DISMISSED WITH PREJUDICE** since the defendants are immune under the PSTCA.
9. The plaintiff's claims for violations of his rights under the Pennsylvania Constitution are **DISMISSED WITH PREJUDICE**.

10. The defendants' motion to dismiss the plaintiff's *Monell* claim against Lackawanna County in Count III is **GRANTED**, and this claim is **DISMISSED WITHOUT PREJUDICE**. The plaintiff is permitted to file an amended complaint regarding his *Monell* claim in Count III **within 14 days** of the date of this Order.
11. Failure of the plaintiff to file his amended complaint as specified in this Order will result in a dismissal of his case.

s/ *Malachy E. Mannion*
MALACHY E. MANNION
United States District Judge

DATED: August 6, 2018

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